

BASICS & BEST PRACTICES



April 30, 2014
10:30 a.m.

Objectives

- Review Basic Provisions of FECA
 - Registration and Reporting Requirements
 - Contribution Limits and Prohibitions
- Discuss FEC's Administration and Enforcement of the Law
- Highlight Recommended Internal Controls

PART 1: REGISTRATION AND REPORTING REQUIREMENTS

Campaign Finance Laws

- ▣ Federal Election Campaign Act (FECA)
 - ▶ Disclosure
 - ▶ Limitations and Prohibitions
 - ▶ Administration and Enforcement

Campaign Finance Laws

- ▣ Federal Election Campaign Act (FECA)
 - ▼ Disclosure
 - Political committees must register and report receipts and disbursements

I. Registration Threshold

Campaign Finance Laws

- ▣ Committee Registration
 - ▶ Unlike other committees, SSFs must register upon formation

 Information Division
2013-14 Election Cycle

Basics and Best Practices

II. Committee Registration (11 CFR 102.1(d) and 102.2)

A. FEC Form 1 (Statement of Organization)

1. When to File

- Principal Campaign Committees file within 10 days of designation by candidate on Statement of Candidacy (FEC Form 2).
- Other political committees file within 10 days of triggering registration.

2. Requirements

Committees that file electronically must include their email address. Others are encouraged to do so.

3. Amendments

Amend Statement of Organization (and other filings) when necessary within 10 days of change.

Committee Registration

▼ Name of Committee

- SSF's name must include the full name of its connected organization
- Full name required on FEC reports and in disclaimers

B. Name and Address of Committee

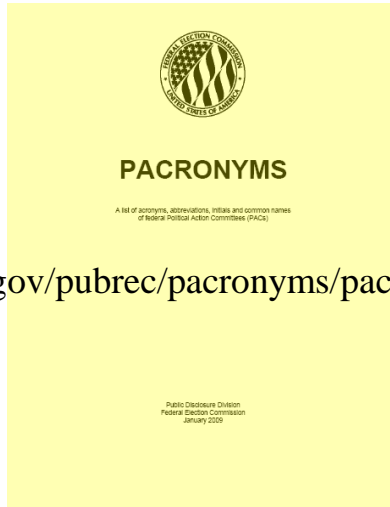
1. Separate Segregated Funds

Name must include full name of the connected organization.

2. Use Committee's Official Name on:

- a) FEC reports and statements.
- b) Disclaimer notices for public advertising.

Committee Registration



www.fec.gov/pubrec/pacronyms/pacronyms.shtml

Committee Registration

▼ E-Mail Address:

- Required for E-Filers
- Necessary to receive report notices and other courtesy mailings from the FEC

3. Street Address, Email, Website

- a) E-Mail required for electronic filers; necessary to receive FEC report notices and other courtesy materials.
- b) URL required if committee has web page.

Committee Registration

List Connected Organization

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

XYZ Organization

Mailing Address 123 Membership Drive

Washington DC 00000-0000

CITY STATE ZIP CODE

Relationship: ☒ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor

Committee Registration

List Affiliated Committees

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

XYZ Organization Subsidiary PAC

Mailing Address 123 Subsidiary Circle

Washington DC 00000-0000

CITY STATE ZIP CODE

Relationship: ☐ Connected Organization ☒ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor

Affiliated Committees

Committees established, financed, maintained or controlled by same entity:

- Principal Campaign Committee and Other Authorized Committees
- State Party and Registered Local Party Committees in that State
- Corporate Parent and Subsidiaries
- National Membership Organization and its State and Local Units

C. **Affiliated Committees (11 CFR 100.5(e) and 110.3(a)(3))**

1. **How to Determine:**

- a) Principle: committees established, financed, maintained, or controlled by same entity or group of persons.
- b) Others may also be affiliated depending on various factors, such as similar patterns of contributions, common officers, etc. See 11 CFR 100.5(g) & 110.3(a).

2. **Examples:**

- a) Candidate – principal campaign committee and all authorized committees; limits on contributing to candidate apply on per election basis.
- b) Party – state party committees normally affiliated with local party committees in same state; national party and state party have separate limits, but may transfer between each other.
- c) Corporation – PACs set up by parent, subsidiary, branch, division or other affiliate.

- (1) Example for Corporations: In AO 2007-16, the Commission ruled that a corporation spun off from another corporation were no longer affiliated as of the date of the spin-off. Although the two companies had a large common shareholder base, factors indicating disaffiliation were stronger, including lack of ownership by one company in the other, the minimal personnel overlap between the companies (including the companies' subsidiaries), the lack of any plan for

personnel of one of the companies or its subsidiaries to serve in the future in either of the other companies or its subsidiaries (other than the two currently overlapping individuals), and the fact that a majority of the two companies' respective board members did not serve on the board of, and were not officers of, any pre-spin-off corporate entities.

d) Union

- (1) National and its locals.
- (2) International and its local, state and central bodies.
- (3) If union belongs to AFL-CIO, the PACs of that union are affiliated with each other, but are not affiliated with the PACs established by national and state AFL-CIOs.

e) Membership – PACs established by national membership organization and its state and local affiliates.

f) Trade Association – PACs established by federation and its regional, state and local associations, but PACs of member corporations not affiliated with trade association's PACs.

Affiliated Committees

Generally treated as one committee for purposes of the federal campaign finance laws:

- Share limits on contributions made and received

3. Why Important:

- a) Same contribution limit applies to contributions received and made by affiliated committees.
- b) If one committee qualifies as multicandidate, all its affiliated committees qualify.
- c) No limit on transfers between affiliated committees.

Committee Registration

▼ Treasurer & Assistant Treasurer

- Deposits receipts
- Authorizes all expenditures
- Monitors contributions
- Keeps all required records
- Signs reports
- Files accurate reports on time

D. Treasurer & Assistant Treasurer (11 CFR 102.7, 102.9 and 104.14)

1. Treasurer Required – Asst. Treasurer Recommended

- a) Identify on Form 1.

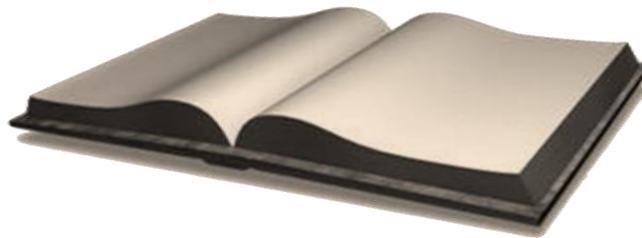
2. Duties:

- a) Depositing receipts.
- b) Authorizing all expenditures.
- c) Monitoring contributions.
- d) Keeping all required records.
- e) Signing reports.
- f) Filing accurate reports on time.

Treasurer Required

Committee cannot raise or spend funds
when office of treasurer is vacant.

- 11 CFR 102.7(b)



Treasurer's Liability

- ▶ Treasurer generally named as enforcement respondent in official capacity
- ▶ Personal liability possible if:
 - Knowingly & willfully violated the Act;
 - Recklessly failed to fulfill duties; or
 - Intentionally ignored information that led to the violation

3. **Treasurer Responsible for Compliance.**

- a) Usually named in enforcement actions.

- b) Policy statement on when treasurer may be found personally liable (online at <http://www.fec.gov/law/policy/2004/notice2004-20.pdf>)
- c) Embezzlement policy (online at <http://www.fec.gov/law/policy/embezzlepolicy.pdf>)

Recordkeeping

Contributions over \$50, record:

- Amount
- Date received
- Donor's name and address
- Full-size photocopy or digital image of check



Contributions aggregate over \$200, record:

- Above information plus occupation and employer for individual donors

E. Recordkeeping and Best Efforts (11 CFR 102.8 and 102.9)

1. Recordkeeping

a) For Receipts

- (1) For any amount, need date received and amount.
- (2) Over \$50, name and address of contributor/payor.
- (3) Over \$200, above plus occupation and employer.

b) For Disbursements

- (1) For any amount, need name of payee, address, purpose, date made.
- (2) For contributions made, also need name of candidate, state, district, and election designation.

Recordkeeping

All disbursements, record:

- Amount
- Date
- Name and Address of Payee
- Purpose of Disbursement



For contributions:

- Above information, plus name of candidate, state, district and election designation

Recordkeeping

Retain records for three years from the date of the report to which the records relate



Any time after
January 31, 2017



c) **Record Retention**

Retain each record for three years from the date of the report on which it was last disclosed.

Making Best Efforts

- ✓ Request contributor info when soliciting contribution
- ✓ If info missing, make follow-up request within 30 days
- ✓ Amend report to disclose missing information once received

2. **Best Efforts (11 CFR 104.7)**

- a) Required to make “best efforts” to obtain, maintain and report required information.
- b) To show “best efforts,” committee must:
 - (1) Request information in solicitation materials, along with applicable disclaimer informing contributors that information is required under federal law;
 - (2) Make follow-up request within 30 days of receipt of contributions lacking required information, keep written documentation of follow-up request (with no additional solicitation made); and
 - (3) Amend reports to disclose information received but not previously disclosed (or include information in memo reports on the next report filed).

Follow-up Request

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.



Basics and Best Practices

F. Campaign Depository (11 CFR 103.2 and 103.3)

- 1. Disclose on Form 1.**
- 2. Required Accounts**
 - a) Must have at least one (federal) checking account.
 - b) All contributions deposited into and expenditures made from depository.
- 3. Timing**

Deposit contributions within 10 days of treasurer's receipt.

G. Amendments to Form 1 (11 CFR 102.2(a)(2))

1. Required within 10 days after change in information.
2. Paper filers may amend by letter or Form 1; E-filers must amend electronically by submitting a replacement Form 1.

III. Filing Dates (11 CFR 104.5(c))

2014 Filing Requirements

- ▣ SSFs file FEC Form 3X
 - Quarterly + Pre- and Post-Election; or
 - Monthly Schedule



Quarterly Filers - 2014

Report Type	Coverage and Due Dates
April Quarterly	Covers 1/1 - 3/31; Due 4/15/14
July Quarterly	Covers 4/1 - 6/30; Due 7/15/14
October Quarterly	Covers 7/1 - 9/30; Due 10/15/14
Pre-Election	Covers 1st day of current period to 20 days before election; Due 12 days before election (12G covers 10/1 - 10/15; Due 10/23/14)
Post-General	Covers from 1 st day of period to 11/24; Due 12/4/14
Year-End	Covers 11/25 - 12/31/14; Due 1/31/15

Quarterly Filers - 2014

Pre-Primary Reports

- ▣ Due 12 days before any primary in which the committee makes previously undisclosed contributions or expenditures
- ▣ Covers activity from close of books for last report, through 20 days before election

Monthly Filers - 2014

Reporting Period	Due Date
January 1-31	February 20
February 1-28	March 20
March 1-31	April 20
April 1-30	May 20
May 1-31	June 20
June 1-30	July 20
July 1-31	August 20
August 1-31	September 20
September 1-30	October 20
October 1-15 (Pre-General)	October 23
October 16-November 24 Post-General)	December 4
November 25-December 31 (Year-End)	January 31, 2015

- A. During Election Year (even-numbered year)**
- 1. PACs File Quarterly or Monthly**

- a) Quarterly reports due April 15, July 15 and October 15 and January 31; Pre-Primary, Pre-General, Post-General.
- b) Monthly filers must file report on 20th of each month, except Pre-General and Post-General in lieu of November and December monthly reports.

Choosing a Filing Schedule

Committees active in a number of different states may benefit from filing monthly.

No Pre-Primary Reports

Changing Filing Frequency

- ▶ Request on or before next report
 - Electronic filers must submit request electronically
- ▶ No more than once per year

B. Changing Filing Schedule

1. Timing

- a) PACs and parties may change their filing schedule from quarterly to monthly or from monthly to quarterly only after notifying the Commission in writing (or electronically if an e-filer), of its intention at the time it files a required report under its current filing schedule or in a separate miscellaneous text submission (Form 99) filed at any time.
- b) Such political committee will then be required to file the next required report under its new filing schedule and will receive a letter which lists the subsequent filing requirements.

2. May only change filing schedule once per calendar year.

3. A PAC that filed semi-annually in 2013 automatically files quarterly in 2014. No need to notify FEC (unless switching to monthly).

IV. Where to File FEC Financial Reports (11 CFR 108.4)

Where to File

Federal Election Commission
999 E Street, NW
Washington, DC 20463



- **PACs file at the FEC**

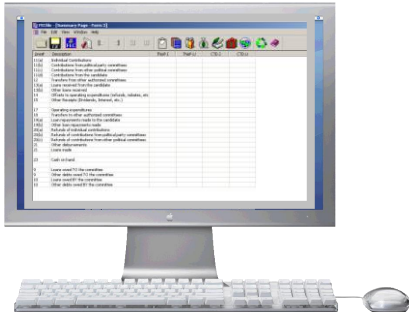

Filing on Time

- ❑ **No Extensions**
 - Filing dates not extended for weekends or holidays.
 - Must be received on business day preceding filing date.
- ❑ **Registered/Certified vs. Overnight Mail**
 - If filing using USPS registered/certified mail, keep receipt.
 - “Overnight Mail” means next-day express or priority mail with delivery confirmation or overnight service with online tracking system. Same terms as registered/certified mail. (Keep receipt/tracking number.)

How to File FEC Reports

On Paper

Electronically*



* Senate filers may voluntarily submit an unofficial electronic copy of their reports to the FEC, but their official filings must be filed on paper with the Secretary of the Senate.

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Basics and Best Practices

V. Other Filing Issues

A. Filing Amendments Required For:

1. Errors

Committee discovers that an earlier report contained erroneous information or mathematical errors.

2. Disclosure of Late Information

Committee obtains required reporting information concerning a particular transaction after the transaction has been reported.

3. Response to Request for Additional Information (RAI)

FEC sends letter (e-mail) and requests amendment. Response due date appears in upper right corner of RAI.

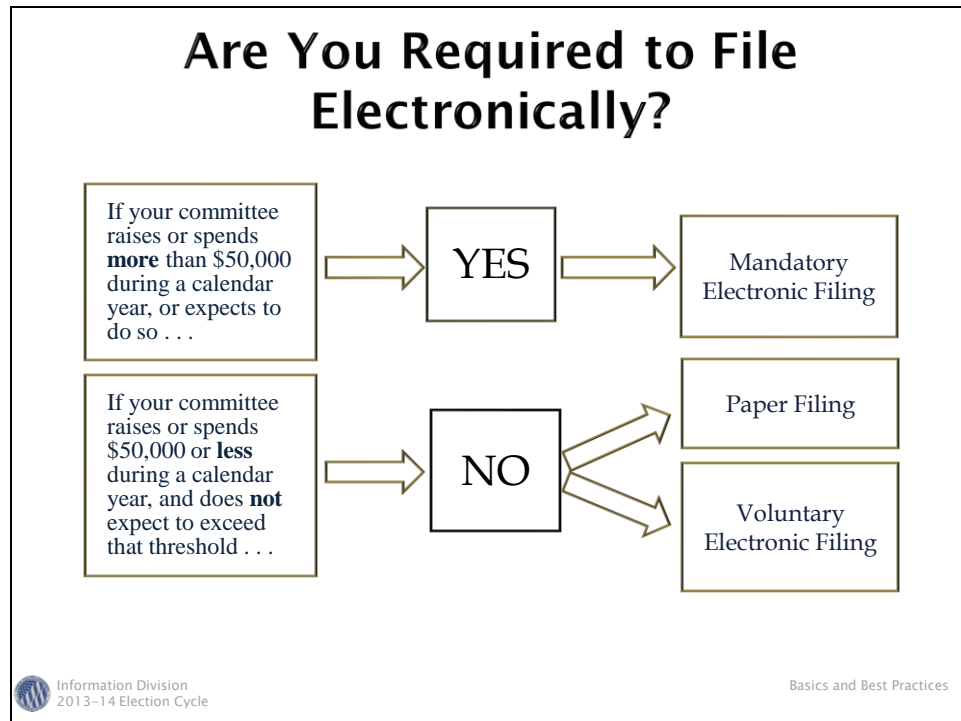
4. Procedures for Filing Amendments:

a) Paper Filers

- (1) It is not necessary to resubmit the entire report.
- (2) Complete the signature page of the Summary Page, checking box indicating that it is an amended report.
- (3) Attach corrected schedules, if necessary.
- (4) Attach cover letter explaining change (recommended).

b) Electronic Filers

- (1) Must submit amendments in electronic format (if original was filed electronically).
- (2) Amendment must include complete report (as opposed to just the portion requiring an amendment).



B. Electronic Filing (11 CFR 104.18)

Mandatory for: Presidential and House Campaigns, PACs and Party Committees that raise or spend more than \$50,000 in calendar year or have reason to expect to do so.

C. Voluntary for All Other Filers

1. Senate Campaigns

Must file paper copy of report with Secretary of Senate (statutory requirement).

2. Passwords

a) Required

Before you can electronically file your report, you will have to obtain a password. You cannot file without one.

b) Who Can Get a Password?

For registered committees, only the official treasurer can obtain an electronic filing password. It is important that the committee has provided a valid e-mail address on its Statement of Organization, as a validation e-mail will be sent to the Committee.

c) How Do You Get a Password?

(1) Most committees may obtain or change their password on-line at

<http://www.fec.gov/electfil/passwords.shtml>

(2) Existing committees that have not previously used the on-line system should contact the Electronic Filing Office for assistance at 202-694-1307.

3. Use Updated Software

a) Software revised when forms changed – always use the latest version. Auto update feature makes it simple.

b) Latest version of FECFile 8 – build 8.0.1.11 available for download at <http://www.fec.gov/electfil/updatelist.html>.

4. Paper Filing by E-Filer

Committees that submit a report on paper that should have been filing electronically will be treated as non-filers and may be subject to enforcement actions (including Administrative Fines).

5. For more information: <http://www.fec.gov/electfil/electron.shtml>.

Electronic Filing Passwords

Like the signature on a paper report, the password indicates that the electronic filing originated with the committee in whose name it is filed.

Who can get a password?

For a registered committee, only the official treasurer can obtain an electronic filing password.

An entity or person(s) other than a political committee may also obtain an electronic filing password for online filing.

Registered Committees: How do I get a password?

If you are the committee treasurer, you can create a password using the Electronic Filing Password Request (see links below).

Using the Electronic Filing Password Request a treasurer can:

- [Create a new electronic filing password](#) (only for committees filing electronically for the first time),
- [retrieve a forgotten password](#)
- [change a password](#)

Get Started

On-line Password Request

Notes: For security reasons, all changes are promptly notified of any account changes.

When a committee appoints a new treasurer, it must amend its Statement of Organization within 10 days of the appointment to disclose the change. In order to do so electronically, the new treasurer must request a password. Once a password is received, the new treasurer can file the amended Form 1 to indicate the change. For assistance, call the Electronic Filing Office at (202) 694-1642, option 3.

Entity or person(s) other than a political committee: How do I get a password?

An entity or person(s) other than a political committee can obtain a password by faxing (or mailing) a [Password Request Letter for Entity or Person\(s\) Other Than a Political Committee](#) to the Electronic Filing Office (202-694-1642). Use the back of the available and be sure to include the committee name, EAC PAC ID number, etc.

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Basics and Best Practices

D. Other Reporting Considerations for Paper Filers

1. **Statute Prohibits Extensions** (Applicable to Paper and Electronic Filers).
2. **Weekends and Holidays**
Filing dates not extended for weekends or holidays. Must be received on business day preceding filing date.
3. **Registered vs. Overnight Mail**
 - a) If filing using USPS registered mail, keep receipt.
 - b) "Overnight Mail" means express or priority mail with a delivery confirmation or an overnight service with an on-line tracking system. File using same terms as certified/registered mail. (Keep receipt.)

Best Practices: Filing

- ✓ Ensure your staff and vendors understand filing rules and deadlines
- ✓ Update your software regularly
- ✓ Have a current email address on Form 1 to receive courtesy email reminders

PART 2: BASIC OPERATIONS/CONTRIBUTION LIMITS AND PROHIBITIONS

Campaign Finance Laws

- ▣ Federal Election Campaign Act (FECA)
 - Disclosure
 - Limitations and Prohibitions
 - Administration and Enforcement

I. Contributions (11 CFR 100.52)

A. Broad Definition

Anything of value given or loaned to influence a federal election.

B. Types

1. Money
2. In-Kind (goods and services)
3. Loans of money or advances of goods and services
4. Bank loan endorsements and guarantees
5. Advances of personal funds by staff and volunteers
6. Proceeds from sales of fundraising items
7. Extension of credit to committee outside ordinary course of business

Contribution Limits

For 2013-14 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,600	\$32,400	\$10,000 (combined)	\$5,000	None
National Party	\$5,000	No Limit	No Limit	\$5,000	\$45,400 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,600	\$32,400	\$10,000 (combined)	\$5,000	None

C. Contribution Limits (11 CFR 110.1 and 110.2)

1. Certain Limits Increased and Indexed for Inflation

- Candidate and party limits increased and indexed; multicandidate PAC limits unchanged.
- Indexing began in 2005 – odd-numbered years.

2. How Applied

- Limits apply to contributions received and contributions made by committee.
- If made by an individual, counts against the limit of the person signing the check or accompanying note.

3. Presidential

- Primaries – One limit for all.
- General – No contributions if candidate accepts public funds. (See AO 2007-03, Obama)
- General Election Legal and Compliance (GELAC) Fund – OK if donations comply with limits.

4. Cash Contributions – \$100

5. Anonymous Contributions – \$50

Multicandidate Status

- ▣ Registered with FEC 6 months
- ▣ Received contributions >50 donors
- ▣ Made contributions to ≥ 5 candidates
- ▣ Alternative: affiliated with one/more multicandidate committees

Multicandidate Status

NOTIFICATION OF MULTICANDIDATE STATUS
(Date receive date for instructions)
This form should be filed after the Committee qualifies as a multicandidate committee.

1. TO NAME OF COMMITTEE (FULL): _____

2. FEED IDENTIFICATION NUMBER: _____

3. TYPE OF COMMITTEE (check one):
☐ STATE PARTY
☐ OTHER

I certify that one of the following situations is correct (complete line 4 or 5):

4. **STATUS BY AFFILIATION:** The committee submitted its Statement of Organization (FEC FORM 1) on _____ and simultaneously qualified as a multicandidate committee through its affiliation with:
Committee Name: _____
FEC Identification Number: _____

5. **STATUS BY QUALIFICATION:**

(a) **Candidates:** The committee has made contributions to the five (5) federal candidates listed below (ONLY State party committees may leave this blank.):

	Name	Office Sought	State/District	Date
(i)				
(ii)				
(iii)				
(iv)				
(v)				

(b) **Contributors:** The committee received a contribution from its 51st contributor on: _____

(c) **Registration:** The committee has been registered for at least 6 months. FEC FORM 1 was submitted on: _____

(d) **Qualification:** The committee met the above requirements on: _____

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.
TYPE OR PRINT NAME OF TREASURER: _____ SIGNATURE OF TREASURER: _____ DATE: _____

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. § 6437g.
4000 CHANGES TO INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

For Further Information Contact:
Federal Election Commission, Washington, DC 20543
Toll-free 800-426-6966
Local 202-694-1100

FEC FORM 1M
(Revised 1/2011)

- ▣ File FEC Form 1M
- ▣ Listed in FEC database as Qualified Committee
- ▣ Notify contribution recipients of status

D. Multicandidate Committee Status (11 CFR 100.5(e))

1. Why Important:

Determines whether PAC or party committee can give up to \$5,000 to candidate, per election (and whether candidate can accept it).

2. Criteria

- a) Registered with FEC 6 months.
- b) Received contributions from more than 50 contributors.
- c) Has made contributions to at least 5 federal candidates (not needed for state party committee).
- d) Alternative: be affiliated with multicandidate committee.

3. Responsibility for Informing FEC

- a) PAC or Party committee must file Form 1M within 10 days of qualifying as multicandidate committee.
- b) Check box at end of page 2, Form 3X.

4. Responsibility for Informing Campaigns

- a) Multicandidate committee must inform recipients that it has qualified as multicandidate committee.
- b) Call FEC's Public Records Office to verify status as *qualified* multicandidate committee.

Contribution Limits

- ▣ Cash contribution cannot exceed \$100



- ▣ Maximum anonymous contribution \$50

Campaign Finance Laws

▣ Federal Election Campaign Act (FECA)

Prohibitions

- Corporations and Unions
- Federal Government Contractors
- Foreign Nationals
- Contributions in Name of Another

II. Contribution Prohibitions

- A. **Corporations (including incorporated membership, trade and cooperative organizations or associations), labor organizations and national banks** are prohibited from making contributions in connection with federal elections. **11 CFR 114.2**. Therefore, they may not:
1. **Act as conduit for earmarked contribution.**
 2. **Give discount to campaign or committee that is not in normal business practice.**
 3. **Allow use of facilities or resources without reimbursement, and, in some cases, advance payment.**
- B. **Federal Government Contractors (11 CFR Part 115)**
- C. **Foreign Nationals (11 CFR 110.20)**
1. **American subsidiary of foreign corporation may establish SSF only if:**
 - a) Foreign nationals do not control or participate in decisions of SSF; and
 - b) SSF is not administered or otherwise funded with foreign revenues.
 2. **Ban does not apply to permanent resident aliens (green card holders).**

3. **Individuals who are foreign nationals may:**
- a) Volunteer for Congressional campaign and participate in decision-making, (Note: because volunteer is engaged to candidate.) AO 2004-26.
 - b) Attend campaign fundraising events (Note: because attendee is engaged to candidate). AO 2004-26.
 - c) They may not, however, participate in decision-making regarding election activities for a corporation or a political committee. AO 2004-32.

- D. **Contributions in Name of Another (11 CFR 110.4(b))**
- 1. Cannot reimburse or be reimbursed for contributions.
 - 2. Parents cannot give in names of children.
 - 3. BCRA increased penalties for violations of this ban.

Citizens United v. FEC

- ▣ Enables corporations and unions to spend treasury funds on independent expenditures and electioneering communications
- ▣ Ban on corporate/labor contributions not affected by the decision



Campaign Finance Laws

▣ Federal Election Campaign Act (FECA)

Prohibited in All U.S. Elections

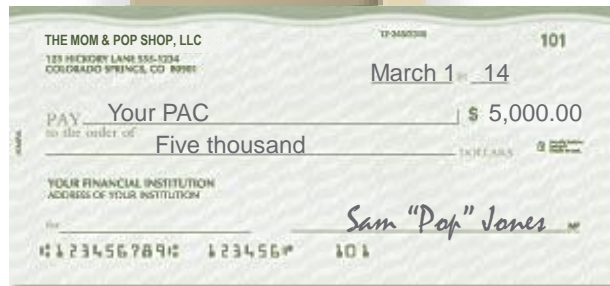
- Foreign Nationals
- National Banks
- Federally Chartered Corporations

E. Certain Prohibitions Apply to All Elections (11 CFR 114.2(a))

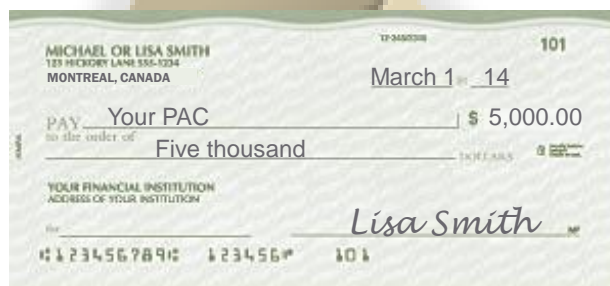
1. Foreign nationals
2. National banks
3. Federally chartered corporations

III. Handling Questionable Contributions to Federal Account (11 CFR 103.3)

Questionable Contributions



Questionable Contributions



Questionable Contributions

- ▣ Deposit or return ≤ 10 days of receipt
- ▣ Determine legality ≤ 30 days
- ▣ Seek oral or written evidence for files
- ▣ Retain or refund, as appropriate

A. Deposit While Checking

If unsure whether contribution is from a permissible source, party may deposit it while confirming permissibility.

B. Refund After 30 Days If Unable to Verify Legality

Within 30 days of receipt, must refund if unable to determine if contribution is permissible.

PART 3: ADMINISTRATION/ENFORCEMENT OF LAW

Administration

Among other things . . .

- ▣ OGC drafts regulations and responds to advisory opinion requests (AORs)
- ▣ Communications offices respond to inquiries about the law and conduct outreach programs
- ▣ RAD analysts review all reports and send Requests for Additional Information (RAI) when clarification is required

I. RAD Review Process

A. Organization of RAD

1. Three Branches

- a) Party/Non-Party Branch – reviews all party committee and PAC reports – 14 analysts. New analysts undergo a 4-5 month training process and are then mentored by a more senior analyst for 6 to 12 months.
- b) Authorized Branch – reviews federal candidate committee reports – 12 analysts. New analysts undergo a 2 month training process and are then mentored by a more senior analyst for 6 to 12 months.
- c) Compliance Branch – serves a quality control function for the review branches and implements the Non-filer and Administrative Fine Programs – 4 analysts.
- d) Recently began cross training analysts to review reports filed by all committee/entity types.

2. Committee Assignments – Party/Non-Party Branch

- a) Party/Non-Party Branch analysts are assigned anywhere from 300 to 500 committees (parties and PACs).
- b) PACs are assigned randomly with the larger ones being assigned to more senior analysts.

- c) National party committees are assigned to the more senior analysts. State party committees are assigned by state, so that the assigned analyst reviews both the Democratic and Republican state parties. Local party committees are assigned randomly.
- 3. **Committee Assignments—Authorized Branch**
 - a) Authorized Branch analysts are assigned anywhere from 200 to 350 committees and filing entities (House, Senate, Presidential, Delegate, Joint Fundraising, Independent Expenditures and Electioneering Communications).
 - b) House and Senate campaign committees are assigned by state.
 - c) Presidential and Delegate committees are assigned to more senior analysts.
 - d) All others are assigned randomly.
- 4. **Analyst Responsibilities**
 - a) Review all reports filed by assigned committees by established deadlines.
 - b) Customer service role – assist committees on the phone on a daily basis and log phone calls. Meet with committees by request.
 - c) Participate in FEC Conferences and Roundtables.
 - d) Special Projects.

Review and Referral Policy

- ▣ Categories of review include:
 - Mathematical discrepancies
 - Failure to provide supporting schedules
 - Failure to properly itemize contributions from individuals
 - Prohibited, excessive and impermissible contributions
 - Improper itemization of disbursements
- ▣ RFAI threshold
- ▣ Thresholds are confidential and policy is approved by the Commission

B. RAD Review of Reports

1. RAD Review and Referral Policy

- a) Internal policy contains categories of review the analyst checks, such as: Prohibited, Excessive and Impermissible Contributions, Mathematical Discrepancies, Failure to Provide Supporting Schedules and Failure to Properly Itemize Contributions from Individuals and Disbursements, to name a few.
- b) Policy has established thresholds for making determinations on whether to send a Request for Additional Information (RFAI).
- c) Thresholds are confidential and policy is approved by the Commission. A redacted version of the RAD Review and Referral Policy can be found on the RAD web page.

Review of Reports

- ▣ Thresholds are applied on a per report basis.
 - If reoccurring reporting issues exist on multiple reports, a committee may receive multiple RFAIs identifying the same issue
 - RAD does not consider previous responses to RFAIs
 - Exception: Responses relating to best efforts procedures apply for the two year election cycle, responses relating to foreign address inquiries that indicate safe harbor guidelines are followed for all contributions apply for the two year election cycle
- ▣ It's possible to see an issue questioned on one report, but not on another

- d) Review is conducted on a per report basis, meaning the thresholds are applied to each report reviewed.
 - (1) This means a committee may receive a RFAI which includes the same issue already addressed in response to a RFAI referencing a different report.
 - Exceptions include outlining Best Efforts procedures which would apply to the two-year cycle, and responses relating to foreign address inquiries that indicate safe harbor guidelines are followed for all contributions apply for the two year election cycle.

- (2) There may be several issues that are aggregated together to meet a single threshold, so it's possible to see an issue questioned on one report that isn't included in an RFAI on for another report.
- e) Policy is reassessed every election cycle and revisions/changes made based on input from RAD and other offices (such as OGC), and Commissioners.

Request for Additional Info

- ▣ If internal thresholds are met:
 - Analyst sends RFAI with response due date in upper right corner
- ▣ No extensions
- ▣ Responses assessed by analysts, team leaders
- ▣ Analysts do not reply to committee responses

C. Request for Additional Information (RFAI)

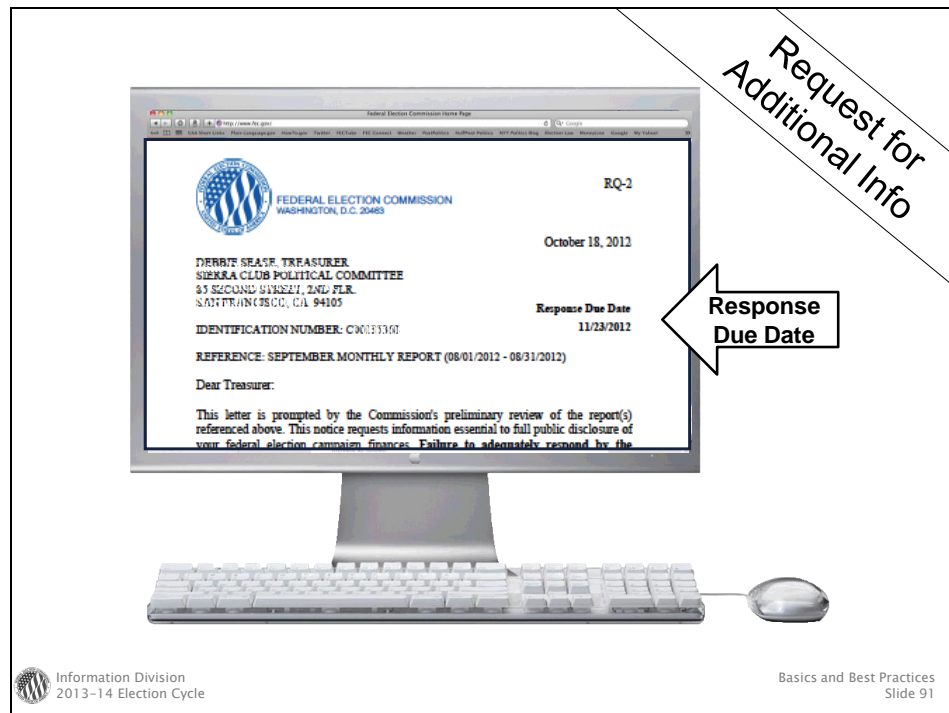
1. **If internal thresholds are met, an RFAI is sent**, with a Response Due Date in the upper right hand corner of the letter, extensions are not granted. The committee analyst's name and contact telephone number are also provided in the letter.

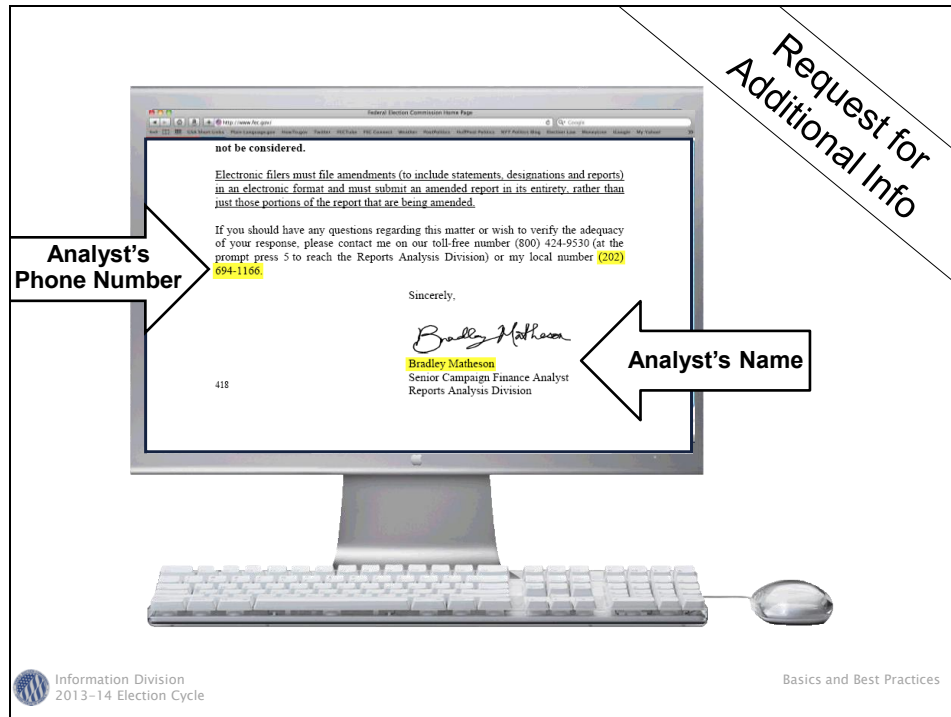
Tip: You can find out who your analyst is by visiting:
<http://www.fec.gov/rad/index.shtml>.

RFAIs via Email

- ▣ RAD is now emailing RFAIs to email address on Form 1 (Statement of Organization).
 - Opt-Out Option: File a Form 99 to request that RFAIs be mailed via USPS.
- ▣ Committees can now list up to two email addresses on Form 1.
- ▣ Ensure current contact information (mailing address, email address, and phone number) appear on FEC Form 1.

2. Committees should ensure that they have provided the most current mailing address, email address and phone numbers on their Statement of Organization (FEC Form 1). Often RFAIs are returned by the Post Office due to an incorrect mailing address.
3. RAD's process for sending RFAIs has changed. Most RFAIs are now sent via email to the Committee's official email address, as disclosed on the Statement of Organization (FEC Form 1). Up to two email addresses can now be provided (both will be used for emailing RFAIs). Committees will have the option to continue to receive RFAIs on paper through the mail.





Responding to RFAs

- ▣ Analysts do not contact committees in every case when a response is not sufficient
- ▣ Committee should contact its analyst before and/or after filing a response
- ▣ Analysts do not make legal conclusions
- ▣ Analysts cannot categorize your activity
- ▣ In some cases, RAD consults OGC before sending an RFAI and when assessing a committee's response

4. Responses are assessed by the analysts and in some cases, team leaders.

- a) Analysts do not reply to responses.
- b) Contact is not made with committees in every case when a response is not sufficient. Further explanation below.
- c) Committees are encouraged to contact their assigned analyst prior to responding if unsure about how to respond or after a response is filed to ensure an adequate response is received.
- d) Keep in mind that analysts can't make legal conclusions or give guidance on a legal conclusion being made by a committee. In addition, they cannot determine what category your activity falls under (i.e., independent expenditures or coordinated party expenditures).
- e) In some cases, RAD consults with OGC before sending a RFAI and when making a response assessment.

Responding to RFAs

☐ File amendment to:

Add, Change or Delete actual entries on
FEC report

☐ Use miscellaneous text submission
(Form 99) for:

Narrative responses that do not affect actual
entries within a report

(e.g., demonstrating best efforts, demonstrating safe harbor
guidelines are followed for all contributions with a foreign
address)

5. **Must amend report when changing information that affects entries on a report.** This would include additions, changes or deletions.
6. **Miscellaneous Text Submission (Form 99)**
Used for narrative responses that do not affect actual entries within a report. (For example, when outlining procedures for “Best Efforts” in obtaining contributor information.)

Audit Consideration Factors

- ▣ Level of financial activity
- ▣ Responses to RFAs
 - ✓ Late or no response
 - ✓ Inadequate response
- ▣ Number of amendments filed is NOT a factor
- ▣ Election results (Authorized committees only)
- ▣ Number of RFAs received is NOT a factor if responses were adequate and timely

D. Referrals to the Audit Division

1. **Factors for making referrals to the Audit Division**
 - a) Level of financial activity;
 - b) Responses to RFAs:
 - (1) Late or no response,
 - (2) Inadequate response.
 - c) Election Results (Authorized committees only).
2. **The number of amendments filed is not a factor.**
3. **The number of RFAs is not a factor** if responded to adequately and on time.

OGC & ADRO Referrals

- ▣ Policy includes referral thresholds
- ▣ RAD calls committee before referring to OGC or ADRO to explain RFAI and request response
- ▣ Adequate and timely response may prevent referral



Basics and Best Practices

E. Referrals to OGC (Office of General Counsel) and ADRO (Alternative Dispute Resolution Office)

1. Internal policy includes thresholds for determining whether a matter should be referred to OGC or ADRO.
2. Committee will receive a phone call from RAD prior to a referral to ADRO or OGC to explain RFAI and request a response.
3. An adequate response is required by the timeframe given to prevent the matter from being referred.

II. FEC Enforcement Process

A. Compliance Cases (OGC)

1. OGC reviews, investigates and prepares briefs and recommendations for Commission.
2. Cases originate through either internal referrals or external complaints.
3. Four Commission votes needed to take action.
4. Civil penalty arrived through conciliation agreement.

B. Office of Administrative Review (OAR)

Administers automatic fines for late or non-filed reports.

C. Office of Alternative Dispute Resolution (ADR)

1. Administers alternative dispute resolution program of FEC.
2. Alternative way of resolving enforcement matters through mediation.

III. Recommended Internal Controls

Internal Controls

- ▣ A process designed to ensure:
 - Effective and efficient operations
 - Reliable financial reporting
 - Compliance with laws and regulations
 - Protection of the organization's assets
- ▣ Formalize in writing
- ▣ Educate Staff
- ▣ Verify that professional compliance firms use internal controls and best practices

A. Internal Committee Controls

1. Internal controls are processes designed to ensure that an organization's goals are met with respect to:
 - Effective and efficient operations
 - Reliable financial reporting
 - Compliance with laws and regulations; and
 - Protection of the organization's assets.
2. Formalize policies in writing
3. Educate committee staff on policies and procedures
4. Verify that professional compliance firms use internal controls and best practices consistent with FEC resources.

Minimum Safeguards: Banking and Cash

- ▣ Limit number of bank accounts
- ▣ Open bank accounts using committee's name and Employer Identification Number
- ▣ Investigate control options offered by bank
- ▣ Use "imprest" system for petty cash funds

B. Minimum Safeguards: Banking and Cash

1. Limit the number of committee bank accounts to those absolutely required to manage the committee's business.
2. Open bank committee bank accounts using the name of the committee and the Employer Identification Number (EIN) rather than in the name of a person.
3. Investigate control options offered by the committee's bank. For example, banks may be able screen checks drawn on committee accounts during their processing for compliance with agreed-upon criteria.
4. Use an "imprest" system for petty cash funds. The imprest fund involves replenishing petty cash only when properly-approved vouchers and /or petty cash log entries are presented justifying all expenditures. The amount of the replenishment is equal to the difference between the stated amount of the fund and the remaining balance. For accountability, only one person should be in charge of the fund. A petty cash fund of not more than \$500 should be adequate in most cases. No cash disbursements in excess of \$100 are permitted.

Minimum Safeguards: Separating Duties

- ▣ Authorize checks > \$1,000 in writing or require two signatures for them
- ▣ Make individual who does not have banking authority in charge of receiving incoming checks and monitoring receipts
- ▣ Review and reconcile bank statements each month and to reports prior to filing
 - Done by someone other than person handling the committee's accounting

C. Minimum Safeguards: Separating Duties

1. Treasurer should authorize checks in excess of \$1,000 or require two signatures for them. Place an individual who does not have banking authority in charge of receiving incoming checks and monitoring receipts.
2. Make a list of receipts when the mail is opened. Person opening the mail and preparing list of receipts should be independent of the accounting function.
3. Review transactions on bank statements and reconcile the statements to the accounting records each month in a timely manner. Prior to filing each FEC report, someone other than a check-signer or person handling the committee's accounting should reconcile the bank and accounting records and the disclosure reports.

Additional Controls

- ✓ Limit number of persons authorized to sign checks
- ✓ Prohibit facsimile signatures or signature stamps
- ✓ Record receipts as mail is opened
- ✓ Consider using lockbox service to process receipts
- ✓ Mail checks promptly and directly to payees
- ✓ Require that checks hand-delivered by committee be signed for by person receiving them

D. Additional Controls

1. Limit the number of persons with access to committee funds and persons authorized to sign checks.
2. Prohibit facsimile signatures or automatic signatures.
3. Record receipts as the mail is opened.
4. Consider use of a lockbox service for receipts.
5. Mail any checks promptly and directly to payees.
6. Require a signature for any checks that are hand-delivered to a committee.

Internal Controls Resources

- ▣ Best Practices for Committee Management (Brochure)
- ▣ Best Practices: Internal Controls & Recordkeeping (Video)
- ▣ Internal Controls for Political Committees (Audit Handout)
- ▣ Policy: Safe Harbor for Misreporting Due to Embezzlement
 - *Record* Summary of Policy Statement

Responding to Misappropriation

- ▣ Contact the FEC
 - RAD Analyst can help with reporting challenges
 - OGC can help with *sua sponte* submission
- ▣ Consult with Counsel
 - Determine if *sua sponte* submission is appropriate
- ▣ Notify law enforcement
- ▣ Do best to file complete and accurate reports by the established deadlines

Compliance Help



www.fec.gov | 1-800-424-9530 | info@fec.gov

Workshop Evaluation

Help Us Help You!
Please complete an evaluation
of this workshop.